



Planning Commission

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TO: City Council

February 12, 2013

FM: Kathy Richardson, Chair

Mike Luxenberg, Vice Chair

RE: Rationale for deviations from Best Available Science

Background

During the course of the Planning Commission's review of the proposed amendments to the Environmental Critical Areas (ECA) regulations, the Commission received information from various sources, including Best Available Science (BAS) reports, public comments, agency comments, and city staff. The information received by the Commission served as the basis for their policy recommendations to the City Council. In many cases, the information received from property owners was consistent with the recommendations from the BAS reports and the over-arching Sammamish Comprehensive Plan goals and policies.

In some cases, the Planning Commission was not able to harmonize the BAS recommendations with other policy goals, and has consequently included a few recommendations in the Planning Commission recommended draft that are not supported by BAS. This memo identifies those policy recommendations from the Planning Commission that are not supported by BAS, and also provides the rationale for the recommended amendments.

Known Topics

The City Council directed the Planning Commission to consider a number of "Known Topics", without providing a specific policy direction. Several of these Known Topics illustrate the need to balance environmental protection with providing appropriate flexibility and options for property owners and applicants. The known topics also explicitly identify BAS and the Sammamish Comprehensive Plan as guiding documents for recommended amendments.

Amendments not supported by Best Available Science

The following Commission recommended amendments to the ECA regulations are not supported by Best Available Science:

2-13c. **Alternative wildlife protection approach.** This amendment was proposed as an alternative to a recommended update to the Fish and Wildlife Habitat Conservation Area regulations.

Best Available Science: The Best Available Science report recommended that the city amend the minimum width of wildlife corridors to increase wildlife protection in those areas not already constrained by existing development. The recommended minimum width for a wildlife corridor was approximately 300 feet; in some cases the maximum wildlife corridor width could be expanded significantly (up to 984 feet) on undeveloped property.

Planning Commission Recommendation: The Planning Commission recommends the adoption of an option that would require establishment of wildlife corridors within a specified distance of high value wetlands or streams; this option was proposed by staff. The Planning Commission proposal bases the width of wildlife corridors on an approved habitat management plan, with a minimum specified width of 300 feet.

Rationale: The Planning Commission believes that this proposed approach is generally consistent with the recommendations of the BAS report. The added policy value of this approach however is that it focuses the provision of wildlife habitat connectivity in areas where high value habitat is known to exist, and it bases

the wildlife corridor width on the specific site conditions and habitat management plan. By focusing on the site conditions and approved habitat management plan, unintended consequences and unnecessary constraints on development of undeveloped property is avoided.

- 2-14c. **Alternative Balance of ECA protection and property use.** This amendment clarifies and adds flexibility to how the city regulates legally established improvements within ECA features and associated buffers. The amendment was proposed as an alternative to a citizen-proposed amendment for site specific buffer delineation, and also provides increased flexibility for established improvements.
- Best Available Science: Best Available Science generally recommends that existing improvements located within a buffer be removed and / or the buffer width be increased to improve protection of the ECA feature.
- Planning Commission Recommendation: The Planning Commission heard testimony from the public that stream and wetland buffers should be reduced in those areas where pre-existing improvements (e.g. house, driveway, landscaping) effectively limited the value of buffers to streams and wetlands. The Planning Commission determined that this testimony was not supported by BAS, and that some of the concerns expressed by the public could be addressed by expanding and clarifying the adopted standards related to existing development. The regulations that govern existing improvements have been clarified and additional flexibility to expand a single family home that is separated from an ECA feature by a building has been added.
- Rationale: The Planning Commission believes that providing this additional flexibility, while not supported by BAS, would recognize that some buffer areas are isolated from the ECA feature they are intended to protect and consequently provide little actual value. Further, the added value of additional flexibility to a property owner was significant in terms of the allowed use of the site, increasing predictability in the development process, and in recognizing the site specific characteristics.
- 3-19. **Wetland Development Flexibilities.** This amendment was identified during public testimony to the Planning Commission. The amendment will increase the amount of isolated wetland alteration allowed under the ECA regulations without first avoiding the impact, and will provide reduced buffers for very small, low value wetland features.
- Best Available Science: The Planning Commission understands that there is no BAS supporting the exemption of small isolated or non-isolated wetlands from protections through avoidance sequencing and buffers.
- Planning Commission Recommendation: The Planning Commission recommended draft language increases the allowance for alterations to isolated wetlands, without first going through avoidance sequencing. Currently the code allows for isolated wetlands with an area of up to 1,000 square feet to be altered (filled) without first going through avoidance sequencing. The proposed amendment would allow for an area of up to 2,500 square feet to be filled of an isolated wetland 4,000 square feet in size. Buffers for low value non-isolated wetlands up to 4,000 square feet have also been reduced to 15 feet, which would recognize that these wetland features provide minimal value other than for water quality. Mitigation for all wetland impacts is still required.
- Rationale: The Planning Commission based its recommendation upon the understanding that the wetland features in question provide low function and value and do not warrant the same level of protection afforded other critical area features in the city. The proposed amendments improve the recognition of site specific conditions and allow for increased flexibility in developing near isolated wetlands or small, low value wetland areas.
- 4-15. **Development in the no-disturbance area of the Erosion Hazard Near Sensitive Water Bodies (EHNSWB) Overlay.** The amendments associated with this policy item focused on two aspects of development.

Item 4-15e addresses single family home construction / modification on existing lots in the no-disturbance area. This item allows for an expansion in the amount of impervious surface on a site in the no-disturbance area, if no increase in stormwater volume will result.

Item 4-15g authorizes subdivisions in the no-disturbance area of the EHNSWB overlay subject to a pilot program which would control erosion and sediment during and after development. Subdivisions would either directly tightline into Lake Sammamish or not increase the amount of stormwater volume.

Item 4-15f would expand the pilot program under 4-15g to allow projects that incorporate Low Impact Development techniques and level 3 flow control into their design to subdivide subject to the pilot program. Storm water would be handled via existing man-made conveyances (e.g. road side ditches).

Best Available Science: The BAS reports provided to the Planning Commission indicate that the erosion and sediment control technology has not changed in a significant way since the last update to the ECA regulations completed in 2005. Consequently the BAS reports do not recommend modification of the Erosion Hazard Near Sensitive Water Body overlay and no-disturbance area requirements to allow for additional development.

Planning Commission Recommendation: The Planning Commission recommends that the City Council authorize a pilot program for limited subdivisions in the no-disturbance area. The pilot program allows the city to evaluate whether development in the no-disturbance area will negatively impact water quality in Lake Sammamish. This approach is consistent with the state's guidance under Washington Administrative Code (WAC) 365-195-920 for situations where there is *"..uncertainty about the risk to critical area function of permitting development"*.

The Planning Commission also recommends that the City Council allow for limited expansions of existing single family improvements on large lots, where such expansions do not increase the volume of stormwater leaving the site.

Rationale: The Planning Commission received a significant amount of testimony from the public indicating that the current water quality standards already adopted by Sammamish prevent any impacts to Lake Sammamish. The Commission also received comments from Department of Ecology indicating that any increase in development was of concern. The Planning Commission decided to recommend a pilot program as a way to evaluate the risk of development in the no disturbance area.

Comprehensive Plan Goals & Policies

The Planning Commission's resource guide included a number of Comprehensive Plan policies for reference, which also informed the Planning Commission's recommendations.

- GOAL HG-4: Avoid creating regulations that have an unnecessary impact on the cost or supply of housing
- GOAL LUG-13: Practice environmental stewardship by protecting, enhancing, and promoting the natural environment within Sammamish and the surrounding communities.
- GOAL LUG-14: Promote development design that maintains a harmonious relationship with the natural environment.
- GOAL LUG-17: Develop and implement plan and regulatory amendment and development permit processes that are participatory, timely, predictable, and fair to all affected parties.
- GOAL EC-5: Protect life and property in areas of natural hazards.